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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,057	02/11/2002	Kenneth Vecchio	UCSD 98-065DIV	9067
20985	7590	02/28/2006	EXAMINER	
FISH & RICHARDSON, PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			JOHNSON, STEPHEN	
			ART UNIT	PAPER NUMBER
			3641	
DATE MAILED: 02/28/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/074,057

Applicant(s)

VECCHIO, KENNETH

Examiner

Stephen M. Johnson

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 13, 16, 18, 19, 21-29, 41-43 and 50-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 52 and 53 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, 8-10, 13, 16, 18, 19, 23-26, 28, 41-43, 50 and 51 is/are rejected.
- 7) ☒ Claim(s) 3, 7, 21, 22, 27 and 29 is/are objected to.
- 8) ☒ Claim(s) 1-10, 13, 16, 18, 19, 21-29, 41-43 and 50-53 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 13, 28, and 51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim limitations directed to a plane strain fracture toughness of “40 Mpa(m)<sup>1/2</sup>” lacks support in the written specification as originally filed.

3. Claims 13, 28, and 51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim limitations directed to a plane strain fracture toughness of “40 Mpa(m)<sup>1/2</sup>” lack and enabling support in the written specification as originally filed.

4. Claim 50 is rejected under 35 U.S.C. 102(b) as being anticipated by Giolitti.

Giolitti discloses a method of making a composite laminate material comprising:

- |                                      |                      |
|--------------------------------------|----------------------|
| a) a plurality of first foils,       | c                    |
| b) a plurality of second foils,      | portion of a prior   |
|                                      | to transformation    |
|                                      | to b                 |
| c) reacting under heat and pressure, | page 1, lines 53-54; |

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page 2, lines 101-105

d) intermetallic compound; and

b

e) a temperature of between 600 and 800 degrees centigrade.

page 2, line 105

5. Claims 1-2, 5, 6, 8-10, 16, 18, 19, 23-26, and 41-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenthal et al..

Rosenthal et al. disclose a method of making a composite laminate material comprising:

a) a plurality of first foils,

11, 21

b) a plurality of second foils,

13; col. 7, lines 48-59

col. 2, lines 21-43

c) reacting under heat and pressure,

col. 7, lines 48-66

d) intermetallic compound.

14 or 23 or 28

Alternatively, the plurality of foils 11 could be considered to be a plurality of first foils and the plurality of foils 21 and more particularly that portion of 21 that is reacted with layer 13 to form the final product as illustrated in fig. 8b could be considered to be a plurality of second of second foils.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenthal et al..

Rosenthal et al. apply as previously recited. However, undisclosed are a number of foils more numerous than 10. Although Rosenthal et al. teach varying the number of foil layers (see figs. 1A-8B) he does not teach a plurality of layers of 10 or more. Since applicant has stated no problem solved or advantage obtained by this particular number of plurality of layers, this feature must be considered to be an obvious matter of design choice (see *in re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)).

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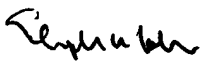
7. Claims 3, 7, 21-22, 27, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 52-53 are allowed.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is ([Stephen.Johnson@uspto.gov](mailto:Stephen.Johnson@uspto.gov)). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.



STEPHEN M. JOHNSON  
PRIMARY EXAMINER

Stephen M. Johnson  
Primary Examiner  
Art Unit 3641

SMJ  
December 8, 2005